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March 29, 2018

**Via U.S. Mail**

Michigan Senate Committee on Local Government  
Sens. Zorn, Proos, Brandenburg,  
Rocca, Young

**Re: Senate Bill 914 (2018)**

Dear Committee Members:

As you are aware, the above bill was recently assigned to your Committee for consideration. While it has the potential to be positive legislation, I wish to draw your attention to some issues that need to be cured before moving further along the path to becoming law.

By way of introduction, I was a co-drafter of the 1978 Condominium Act (as well as the 2001 amendments to same) which SB 914 proposes to amend. The Meisner Law Group has represented community associations, individual co-owners, and developers for over 45 years. More information can be found at our website, [meisner-law.com](http://meisner-law.com).

First, please note the potential for abuse of new subsection 56(d). As written, it allows a governing document provision for a majority of board/committee members to make a decision without even providing notice to the minority. Granted, there is nothing here that would prevent the governing documents from providing for prior notice to all board/committee members, but prior notice should be a required provision. You can see, for example, that subsection (d) as written would be especially problematic for a board that is transitioning from developer to co-owner control. During that time, the developer controls a majority of board seats, and the co-owners control a minority of board seats. We suggest the following revision:

...may be taken without a meeting if a majority of the members of the board of directors or of the committee consent to the action in writing, provided that prior notice of the proposed action has been given to all members of the board or committee, or a waiver of the notice is given by any such member not notified. A record of any such notice, written consent, and waiver, as applicable, shall be filed and made part of the association of co-owners' books and records...

Michigan Senate Committee on Local Government

Re: SB 914

March 29, 2018

Page 2

We also suggest adding a subsection (e) for clarification as follows:

(e) Nothing in this Section shall be construed to allow a committee to make a decision on a matter that has not been properly delegated to the committee by the board of directors in accordance with the condominium documents and applicable law.

Next, subsection 57B(1) is problematic in that mortgagees are not subject to the same process provided in subsection (2) for co-owners. It suggests that a mortgagee can just show up unannounced and demand immediate inspection of records. Thankfully, subsection (6) allows the association to withhold privileged/confidential information for any request made under Section 57B, which of course would include subsection (1), but you can nevertheless see the problems created for an association that has to scramble to identify privileged/confidential information while a mortgagee representative is waiting in the association's business office. Mortgagees should have to follow the same process for requesting records as co-owners.

Please feel free to contact me at 248.644.4433 to discuss anything further. By copy of this letter to Senator Robertson, I thank him for his interest in improving the Condominium Act, and I invite him to contact me as well to discuss this bill and my additional ideas for legislation that he may wish to consider.

Very truly yours,

THE MEISNER LAW GROUP, P.C.



Robert M. Meisner

RMM/MAP

cc: Senator David Robertson; Board of Directors, United Condominium Owners of Michigan